IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 9369 of 2007(M)

PETITIONER:

MAJEEDKUTTY,S/O.HYDROSE,ATHIRA NIVAS,
THYODIYOOR NORTH P.O,KARUNAGAPPALLY,KOLLAM.

BY ADV. SRI.P.K.VARGHESE
SRI.B.VINOD
SRI.K.S.ARUN KUMAR
SRI.E.C.BINEESH
SMT.V.JISHA RANI

RESPONDENTS:
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1. JAMALUDEEN KUNJU,PALAPPALLIL HOUSE,
THODIYOOR NORTH P.O,KARUNAGAPALLY,KOLLAM.

2. THODIYOOR GRAMA PANCHYATH REPRESENTED
BY ITS SECRETARY THODIYOOR P.O KARUNAGAPALLY.

3. DISTRICT MEDICAL OFFICER,KOLLAM.

4. REVENUE DIVISIONAL OFFICER,KOLLAM.

5. POLLUTION CONTROL BOARD,REPRESENTED BY
ENVIRONMENTAL ENGINEER,POLLUTION CONTROL BOARD,
MULANKADAKOM,KOLLAM.

6. ANIMAL WELFARE OFFICER,ANIMAL
HUSBANDARY DEPARTMENT,KOLAM.

7. STATE OF KERALA REPRESENTED BY THE
SECRETARY,LOCAL ADMINISTRATION DEPARTMENT,
THIRUVANANTHAPURAM.

8. DEPUTY SUPERINTENDENT OF POLICE,
KARUNAGAPPALLY.

BY ADV. SMT.K.K.THULASY BHAI,SC,POLLUTION C.BOA
DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SRI.M.R.JAYAPRASAD
SRI.K.K.RAJEEV
SRI.K.HARILAL
SRI.R.GOPAN
SR.GOVT. PLEADER SRI.K.J.MOHAMMED ANZAR
SRI.K.K.THULASI BAI, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 9369 OF 2007 M

Dated this the 11th June, 2007

JUDGMENT

Petitioner has approached this Court feeling aggrieved by the proposed construction of a cattle shed by first respondent. Case of the petitioner, in brief, is as follows:

He is the owner and occupier of 18.21. Ares of property. The adjacent owner is the first respondent, who is an affluent business man. When there was a statutory notice proposing to establish an Animal Market, Ext.P2 objection was given by the petitioner along with nine other persons. The proposal was not sanctioned. It is the petitioner's further case that the first respondent is trying to introduce an Animal Market by resorting to dubious means by naming the venture as a cattle farm. First respondent has constructed a cattle shed just on the side of petitioner's compound wall. Petitioner preferred Ext.P3 representation before the Secretary of the second respondent Panchayat, Ext.P4 before the District Collector and Ext.P5

before the District Animal Husbandry Officer. He has also preferred Ext.P6 to the Environmental Engineer, Pollution Control Board. Ext.P7 was made as a complaint to the RDO, Kollam who caused the petition to be enquired into resulting in Ext.P8 Report of the Tahsildar. The Village Officer prepared Ext.P9 site plan. Ext.P10 series are photographs relied on by petitioner. Complaint of petitioner is inaction on the part of the Authorities.

2. A Counter Affidavit is filed by first respondent, inter alia, stating that there is no intention to cause nuisance, that the properties of petitioner and first respondent are separate by a wall having six feet height and a reasonable distance is provided between the boundary wall and the cattle shed. First respondent has produced Ext.R1(a) photographs showing the position, according to him. He also pointed out that it is incorrect to allege that the respondent Panchayat has not taken any action. Ext.R1(b) is the Stop Memo dated 6.3.2007 issued by the second respondent Panchayat. It is also stated that tank

for storing cow dung and urine will be constructed only under the direction of Panchayat and Health Authority. Further more, Ext.R1(c) is relied on. Ext.R1(c) is a provisional order under Section 133(1) Cr.P.C. passed by the fourth respondent on the complaint of petitioner.

3. Heard the learned counsel appearing for the parties. The complaint of petitioner is essentially inaction on the part of the Authorities. Going by the pleadings and the submissions, it would appear that action is being taken as evident from Exts.R1 (b) and R1(c). Ext.R1(c) being a provisional order, it is open to all the parties to place their contentions before the fourth respondent RDO who, after considering the matter can pass appropriate orders in accordance with law. In such circumstances, the Writ Petition is disposed of with a direction to the fourth respondent RDO to consider the matter, after affording full opportunity to the parties and pass appropriate orders in accordance with law on the complaint filed by the petitioner. I also note that the second respondent Panchayat has

already initiated action as evident from Ext.R1(b). If the petitioner is aggrieved ultimately, it is for him to pursue his remedies available under the Statute.

K. M. JOSEPH, JUDGE

kbk.